

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

CIVIL ACTION NO. 05-10286-PBS

**DOMINIC DIMODICA,
Plaintiff,**

v.

**ROBERT MURPHY, *et al.*,
Defendants.**

**MOTION TO EXTEND TIME OF DEFENDANTS ROBERT MURPHY,
KATHLEEN DENNEHY AND THE MASSACHUSETTS DEPARTMENT OF
CORRECTION TO RESPOND TO THE PLAINTIFF'S COMPLAINT**

Without waiving their objections to the manner of service of the complaint, the Massachusetts Department of Correction ("DOC), Kathleen Dennehy and Robert Murphy (collectively, the "DOC Defendants"), hereby request that the Court extend the time for them to respond to the plaintiff's complaint.

As grounds for this motion, the DOC Defendants state that, on February 25, 2005, the Court, Saris, J., ordered *pro bono* counsel be appointed to represent the plaintiff. According to the docket sheet, no counsel has yet appeared for the plaintiff. The DOC Defendants anticipate that the appointed counsel may wish to amend the complaint. Accordingly, it would appear fruitless to respond to the complaint until the appointed counsel has appeared and had an opportunity to determine whether an amended complaint should be filed. The DOC Defendants respectfully request that the Court extend the time for them to respond to the complaint until after appointed counsel has appeared for the plaintiff and a status conference is held to determine whether the appointed counsel will seek to amend the complaint.

In the alternative, the DOC Defendants request that the Court grant them until June 30, 2005, to respond to the plaintiff's complaint. This time is needed due to their undersigned counsel's heavy workload which includes administrative responsibilities as Supervising Counsel for the Massachusetts Treatment Center, representation of DOC officials and employees in other civil rights litigation and representation of the Commonwealth in G.L. c. 123A, § 9 petitions for discharge in which sexually dangerous persons are seeking release from their civil commitment. Currently, the undersigned counsel is in the process of completing the presentation of the Commonwealth's case in chief in a jury-waived § 9 petition and completing requests for findings of fact and rulings of law in that case. The undersigned counsel is scheduled to begin another § 9 jury trial on June 13, 2005. These cases are highly fact intensive, involve significant expert testimony and require substantial preparation.

WHEREFORE, the DOC Defendants respectfully that this Court allow this motion.

Respectfully submitted,
Massachusetts Department of Correction,
Kathleen Dennehy and Robert Murphy,

By their attorneys,

NANCY ANKERS WHITE
Special Assistant Attorney General
/s/ Mary P. Murray

By: Mary P. Murray, Counsel (BBO # 555215)
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Dated: May 25, 2005

Certificate of Service

I hereby certify that I caused a copy of the within document to be served on the *pro se* plaintiff, Dominic Dimodica, by intra-facility mail.

/s/ Mary P. Murray

Mary P. Murray

Dated: May 25, 2005